

1                                   **BEFORE THE ARIZONA MEDICAL BOARD**

2  
3       In the Matter of

**Case No. MD-07-0076**

4       **NILS E. FOLEY, M.D.**

**INTERIM CONSENT AGREEMENT  
FOR PRACTICE RESTRICTION**

5       Holder of License No. **32906**  
6       For the Practice of Allopathic Medicine  
      In the State of Arizona.

7                                   **INTERIM CONSENT AGREEMENT**

8           By mutual agreement and understanding, between the Arizona Medical Board ("Board")  
9       and Nils E. Foley, M.D., ("Respondent") the parties agree to the following disposition of this  
10     matter.

11           1.       Respondent has read and understands this Interim Consent Agreement and the  
12     stipulated Findings of Fact, Conclusions of Law and Order ("Interim Consent Agreement").  
13     Respondent acknowledges that he understands he has the right to consult with legal counsel  
14     regarding this matter.

15           2.       By entering into this Interim Consent Agreement, Respondent voluntarily  
16     relinquishes any rights to a hearing or judicial review in state or federal court on the matters  
17     alleged, or to challenge this Interim Consent Agreement in its entirety as issued by the Board, and  
18     waives any other cause of action related thereto or arising from said Interim Consent Agreement.

19           3.       This Interim Consent Agreement will not become effective until signed by the  
20     Executive Director.

21           4.       All admissions made by Respondent are solely for interim disposition of this matter  
22     and any subsequent related administrative proceedings or civil litigation involving the Board and  
23     Respondent. Therefore, said admissions by Respondent are not intended or made for any other  
24     use, such as in the context of another state or federal government regulatory agency proceeding,  
25     civil or criminal court proceeding, in the State of Arizona or any other state or federal court.

FEB-09-2007 14:11

1           5.     Respondent may not make any modifications to the document. Upon signing this  
2 agreement, and returning this document (or a copy thereof) to the Executive Director, Respondent  
3 may not revoke acceptance of the Interim Consent Agreement. Any modifications to this Interim  
4 Consent Agreement are ineffective and void unless mutually approved by the parties.

5           6.     This Interim Consent Agreement, once approved and signed, is a public record that  
6 will be publicly disseminated as a formal action of the Board and will be reported to the National  
7 Practitioner Databank and on the Board's website.

8           7.     If any part of the Interim Consent Agreement is later declared void or otherwise  
9 unenforceable, the remainder of the Interim Consent Agreement in its entirety shall remain in  
10 force and effect.

11                                   
12 \_\_\_\_\_  
13 NILS E. FOLEY, M.D.

Dated: 2/9/07

1 **FINDINGS OF FACT**

2 1. The Board is the duly constituted authority for the regulation and control of the  
3 practice of allopathic medicine in the State of Arizona.

4 2. Respondent is the holder of License No. 32906 for the practice of allopathic  
5 medicine in the State of Arizona.

6 3. On June 8, 2006 Respondent and the Board entered a Confidential Stipulated  
7 Health Agreement for Drug/Alcohol Rehabilitation ("SHA"). The terms of the SHA required  
8 Respondent abstain from consuming alcohol or any food or other substance containing poppy  
9 seeds or alcohol. The terms of the SHA also required that if Respondent used drugs or alcohol  
10 he was required to sign an Interim Consent Agreement for Practice Restriction. On February 8,  
11 2007 Respondent called Board Staff and reported having consumed alcohol in violation of the  
12 SHA on two previous occasions, using injectable Demoral on four occasions, and to  
13 overmedicating patients in the operating room.

14 4. Based on the information in the Board's possession there is evidence that if  
15 Respondent were to practice medicine in Arizona there would be a danger to the public health  
16 and safety.

17 **CONCLUSIONS OF LAW**

18 1. The Board possesses jurisdiction over the subject matter hereof and over  
19 Respondent.

20 2. The Executive Director may enter into a consent agreement with a physician if  
21 there is evidence of danger to the public health and safety. A.R.S. § 32-1405(C)(25); A.A.C. R4-  
22 16-504.

FEB-09-2007 14:11

**ORDER****IT IS HEREBY AGREED THAT:**

1. Respondent shall not practice clinical medicine or any medicine involving direct patient care, and is prohibited from prescribing any form of treatment including prescription medications, until Respondent applies to the Board and receives permission to do so.

2. This is an interim order and not a final decision by the Board regarding the pending investigative file and as such is subject to further consideration by the Board.

DATED AND EFFECTIVE this 9 day of February 2007.

(SEAL)



ARIZONA MEDICAL BOARD

By

  
TIMOTHY C. MILLER, J.D.  
Executive Director

ORIGINAL of the foregoing filed this  
9 day of February, 2007 with:

The Arizona Medical Board  
9545 East Doubletree Ranch Road  
Scottsdale, AZ 85258

EXECUTED COPY of the foregoing  
mailed this 9 day of January,  
2007 to:

Nils E. Foley, M.D.  
Address of Record

